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REMARKS

The Pending Claims

Currently pending are claims 1-20, 57, and 59-63. Claims 21-56 and 58 were earlier canceled. Reconsideration of the pending claims as presently amended is respectfully requested.

Summary of the Office Action

The Official Action rejects claims 1, 10, 11, 57 and 59 under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Official Action provisionally rejects claims 1-20, 57 and 59-63 on the ground of non-statutory obviousness-type double patenting over claims 39-46 of co-pending Application Serial No. 11/058,925. Further, the Official Action provisionally rejects claims 1-20, 57 and 59-63 on the ground of non-statutory obviousness-type double patenting over claims 12-19 of co-pending Application Serial No. 11/185,536.

The Office Action rejects claims 1-3, 7-9, 12 and 13 under 35 USC §103(a) as being unpatentable over Aizawa (US Pat. No. 5,928,762) in view of Taunton (US Pat. No. 2,778,173). The Office Action rejects claims 4 and 5 under 35 USC §103(a) as being unpatentable over Aizawa taken together with Taunton, in view of Marzolf (US Pat. No. 3,908,070). The Office Action rejects claim 6 under 35 USC §103(a) as being unpatentable over Aizawa taken together with Taunton, in view of Marzolf, and further in view of Mak (US Pat. No. 6,799,680). The Office Action rejects claims 14-20 under 35 USC §103(a) as being unpatentable over Aizawa taken together with Taunton, in view of Mak. The Office Action rejects claims 10, 11 and 59 under 35 USC §103(a) as being unpatentable

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over Aizawa taken together with Taunton, in view of Bergevin et al. (US Pat. Pub. No. 2003/0070751). Finally, the Office Action rejects claims 60-63 under 35 USC §103(a) as being unpatentable over Aizawa taken together with Taunton, in view of Cancio et al. (US Pat. No. 4,626,574).

Discussion of the Claim Rejections

35 U.S.C. § 112, Second Paragraph Rejection

Claims 1, 10, 11, 57 and 59 stand collectively rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, claim 1 was rejected as being unclear regarding the actual or potential formation of channels for the evacuation of gas from the vacuum packaging bag. Claim 10 was rejected due to a conflicting dependency regarding the methodology of cooling the extruded material. Finally, claim 57 and 59 were rejected on a lack of antecedent basis for the phrase "Said method."

Claim 1 has been amended to specifically indicate the formation of the evacuation channels. Claim 10 has been amended to be in independent form so as to properly differentiate the methods for imparting a pattern to the extruded material indicated in the old version of claim 10 and claim 1. Claims 57 and 59 have been amended to correct the antecedent basis issues raised by the Examiner. Based on the above amendments, it is respectfully submitted that the 35 USC 112, second paragraph rejections of claims 1, 10, 11, 57 and 59 are moot. Withdrawal of such rejections is requested.

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Non-Statutory Double Patenting Rejections

Claims 1-20, 57 and 59-63 stand collectively rejected as non-statutory obviousness-type double patenting in view of claims 39-46 of co-pending Application Serial No. 11/058,925. Similarly, claims 1-20, 57 and 59-63 stand collectively rejected as non-statutory obviousness-type double patenting in view of claims 12-19 of co-pending Application Serial No. 11/185,536.

In light of the attached terminal disclaimer, it is respectfully submitted that the present grounds of rejection are moot. Withdrawal of such rejections is requested.

35 U.S.C. § 103(a) Rejections

As all of the claims are rejected under 35 USC §103(a) based on the initial combination of Aizawa and Taunton it is to this combination that the majority of this response shall be directed. Aizawa teaches the creation of a laminate film comprising an embossed sheet and a suitable backing layer. In generating the laminate film using the process of Aizawa, as is stated in Column 7, lines 16-34:

Firstly, a base material layer B is prepared by applying an adhesive, as occasion demands, on a base material sheet which is printed with patterns in advance. Meanwhile, a resin composition and adhesive resin are supplied to a T-die by extruders and formed by co-extruding into a molten sheet layer A comprising a molten sheet and a molten adhesive resin sheet. Ozone gas is blown from an ozonizer against both the adhesion surfaces of the molten adhesive resin sheet of the molten sheet layer A and the adhesive of the base material sheet B to activate the adhesion surfaces by oxidation. Then these materials are inserted between an embossing/cooling roll having embossing patterns and a pressure roll. The molten sheet layer A and the base material sheet B are joined together, while the

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molten sheet is embossed, and these are transferred in contact with the outer surface of the embossing/cooling roll, solidified by cooling, and peeled off by a peeling roll to obtain the laminate having the layer structure shown in Fig.1.

Emphasis added. If taken as recited by the Examiner that the first and second layers claimed in the present claims constitute the resin composition and the adhesive resin co-extruded to form the molten sheet layer A of Aizawa, then the proposed base reference serves to teach away from the presently claimed invention in which both the first and second layers are imprinted with the pattern generated by the cooling roll as it is clearly shown in the figures (1 and 2) that only the resin composition is embossed. Further, should the examiner exhort the base material sheet includes a pattern and comprises a second layer of the film, it is noted that such base material sheet is not extruded and as emphasized above, the patterns on the base material sheet are printed in advance.

Taunton discloses the general concept of using projections on vacuum packaging material for aiding in the removal of air from the packaging when the otherwise flat interior packaging surfaces would prematurely seal to each other thus preventing the complete removal of air from a package being evacuated. Nowhere within the teachings of Taunton is a method for forming the film material using an extruding process even contemplated. As such, Taunton fails to overcome the shortcomings of the proposed base reference Aizawa in a manner sufficient to allow for the rejection of any of the claims of the present invention based on such a combination.

In light of the above discussion and with guidance from the following case law, it is respectfully submitted that the present obviousness grounds of rejection are improper and withdrawal of same is earnestly solicited. As acknowledged by the Examiner neither Aizawa nor

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Taunton is sufficient to anticipate the claimed invention. It is further submitted that the proposed combination of references similarly fails to obviate the claims as presently amended.

It is clear to Applicant that Aizawa expressly teaches away from the claims as presently amended and Taunton fails to overcome such deficiency. As such, it is respectfully submitted that the proposed combination of references is improper as a basis for any obviousness rejection made in the present Official Action. It is further submitted that none of the other prior art alone or in combination serves to salvage the fatally flawed proposed combination.

As it is believed that the claims, as presently amended, are in condition for allowance and that all of the present grounds of rejection are improper, withdrawal of the present grounds of rejection and issuance of a formal Notice of Allowance is earnestly solicited.

Cited Relevant Prior Art

It is not believed that any of the prior art cited either by the Examiner or the Applicant, alone or in combination, either with each other or other prior art teaches, discloses, suggests or makes obvious the claimed features of the present invention.

CONCLUSION

In view of the foregoing amendments and response, Applicants respectfully submit that the present application is in condition for allowance. If, however, some issues remain which the Examiner feels may be effectively addressed by telephone or via Examiner's amendment, the Examiner is cordially invited to telephone the undersigned.

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Please charge any additional fees, including fees for additional extensions of time, or credit overpayments to Deposit Account No. 50-2289.

Respectfully submitted,


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